



Administrative Memorandum

Nebraska Supreme Court
State Court Administrator
P. O. Box 98910
Lincoln, NE 68509
402-471-3730

DT: May 2004

RE: Administrative Memorandum 04-003

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*John V. Hendry,
Chief Justice*

*Frank E. Goodroe,
State Court Administrator
fgoodroe@nsc.state.ne.us*

Administrative Memoranda available at www.nebraskacourt.com under "Court Administrator's Office" on the main page, left hand menu.

◆ REPORT ON GOVERNOR'S CHILDREN'S TASK FORCE

The Governor's Children's Task Force was organized during the autumn of 2003 in response to a number of violent child deaths in Nebraska in recent years. The Judicial Branch was represented on the Task Force by Hon. John Icenogle, District Court, 9th Judicial District; Hon Robert Ide, County Court, 10th Judicial District; and Hon. Vernon Daniels, Separate Juvenile Court, Douglas County.

The Task Force made several recommendations that pertain to the court system:

- Drug courts should be established locally and funded by a combination of federal, state and local funds;
- The use of Family Drug Courts to mandate treatment of all household members should be explored;
- Guardians ad Litem should be trained, accredited, and required to certify to the court they have visited children they represent;
- CASA programs should be coordinated by state funded coordinators;
- The Supreme Court should undertake a study in conjunction with the Nebraska State Bar Association to determine (1) to what extent the current judicial system is insensitive to children and (2) whether the establishment of a Family Court system is in the best interest of the children of the state and its citizens.

These recommendations and other issues relating to the juvenile court and children who come to the Nebraska court system will be explored over the coming months. For a complete copy of the task force report you may go to <http://gov.nol.org/childtaskforce/finalReport.html>. Questions about the follow-up work being done may be directed to Janice Walker, Associate Administrator, 402-471-2764.

◆ JUDICIAL WORKLOAD STUDY

In 1996, the National Center for State Courts completed a study of Nebraska's judicial workload and established what we all know as the Judicial Weighted Caseload. The weighted caseload statistics are used to determine whether judicial positions should be filled when a judge resigns or retires. The weighted caseload is one of the tools used to determine where the state needs additional judges due to rising caseloads.

The Nebraska State Bar Association Resources Committee has asked the state court administrator's office to request a review of these statistics by the National Center. This review will look closely at factors that affect judicial workload such as the increased use of interpreters since 1996 and how referees and drug courts change the workload of judges in counties where these services exist. In addition, the National Center will be asked to re-examine juvenile court functions and district court administrative appeals to correct flaws in the original study that have skewed the weight of these matters. For more information, contact Janice Walker, Associate Administrator, 402-471-2764.

◆ JUSTICE/NEBRASKA@ ONLINE

JUSTICE information is available through Nebraska@ Online at no charge to Nebraska prosecutors and public defenders, including those who serve part-time under contract with one or more counties. Free JUSTICE access must not be used for the private practice of prosecutors or public defenders.

To request the free service, attorneys must complete an "Agreement for Official JUSTICE Access" through NOL. Contact Karen Berry at Nebraska@ Online, 402-471-7810 or karen@nol.org, to request the agreement form.

Judges can obtain access to JUSTICE online by emailing Karen Berry (address above) and letting her know you are a state court judge and would like a password. She will send you a confirmation letter with instructions.

◆ LOIS UPDATE

LOIS representative Dean Strzelecki is offering to switch all LOIS users from CDs to the LOIS Internet-based product. LOIS has already contacted many judges individually to offer the service. If you are interested, you may call Dean at 800-364-2512 Ext. 4616 or e-mail him at dstrzelecki@loislaw.com. LOIS would like to switch our judicial branch users from the CD product to the Internet-based service in anticipation of an internal movement to eliminate the CD product in the future. LOIS is offering assistance to get all judges and clerks trained on the Internet through individual phone training. Benefits include: Cited cases are accessible through a hyperlink regardless of jurisdiction; Internet services are "portable", meaning users can get to LOIS using the same password from home, court offices, or other locations; the Internet service is the most current - users do not have to wait for a quarterly release of CDs. If you do not currently have LOIS access and would like to try the Internet product, call Janet Hammer Bancroft, Public Information Officer, at 402-471-3205.

◆ NEW INFORMATION FROM NCDHH

The Nebraska Commission for the Deaf and Hard of Hearing (NCDHH) has made available a folder which describes the agency's programs and services. The material contains national standard practice papers; Interpreting in Legal Settings and Code of Ethics for Sign Interpreters prepared by RID (Registry for the Interpreters for the Deaf). Included is information on how to obtain a sign language interpreter, mental health services, hearing aid banks, equipment distribution, and referral services. If you would like a copy, contact Tanya Wendel, Executive Director of the NCDHH at 800-545-6422, or Ken Wade, Associate Administrator, at 402-471-2671.

◆ LAW DAY & JOB SHADOWING

Many thanks to the following clerk magistrates and clerks of the district court for their service as coordinators for this year's job shadowing project: Linda Roberts, Alliance; Darla Schiefelbein, Columbus; Michelle Chris, Dakota City; Valorie Bendixen, Grand Island; Sharon Mauler, Kearney and Pleasanton; Midge Clark, O'Neill; Lorie Koester, Oshkosh; Claudyne Jones, Kimball; Randy McCoy, North Platte, Barb Pousson, Papillion.

The Nebraska Supreme Court and the Bar Foundation's State Center for Law-Related Education for the Public co-sponsor the Job Shadowing project each year in honor of Law Day. The program organizes fifth graders and their teachers to visit courthouses and lawyers offices across the state interacting with judges and lawyers as positive role models.

A special note of appreciation goes to all judges and court personnel who graded papers for the Fifth Annual Law Day Student Essay Contest, grades 7-12. This year the ABA theme recognized the 50th Anniversary of Brown v. Board of Education. Students addressed why they thought schools were the focus of the litigation that led to the decision in Brown v. Board of Education and whether it is more important for schools to be diverse and desegregated than the rest of society. Essay judges were: Kristin Brown, Supreme Court Law Clerk; Hon. Thomas B. Dawson, Separate Juvenile Court; Robin Hadfield, Supreme Court Law Clerk; Hon. Michael High, Workers' Compensation Court; Hon. Robert O. Hippe, District Court; Hon. Paul W. Korslund, District Court; Hon. Jean A. Lovell, County Court; Hon. Marvin Miller, County Court; Hon. Frankie J. Moore, Court of Appeals; Hon. Michael J. Owens, District Court; and Michael Watchorn, Supreme Court Law Clerk.

◆ JUDICIAL DISTRICT VISITS

During the week of June 28 – July 2, State Court Administrator Frank Goodroe will be visiting the 12th and 11th Judicial Districts. Administrative staff will hold district-wide meetings with Court of Appeals, district, county, and juvenile judges, clerk magistrates, clerks of the district court, and other court personnel. The visits will allow the new state court administrator to listen and learn about the challenges found within trial courts across the state.

◆ DISTRICT COURT JUDICIAL DISTRICTS CHANGING

Reminder, LB 877 changed the composition of the first and tenth district court judicial districts by moving Clay and Nuckolls counties from the tenth to the first judicial district. Maps, listings, and internet information will be updated prior to July 1, 2004.

◆ CHANGES IN PERSONNEL

Office of Dispute Resolution Director, **Wendy Hind**, resigned effective May 31, 2004, in order to pursue her Doctorate in Political Science through the University of Nebraska. The Dispute Resolution Advisory Council will be consulted by the State Court Administrator's Office to review credentials for a new director and seek qualified applicants.

Mark D. Kozisek took the bench as district court judge for the Eighth Judicial District on May 28, 2004. His principal office location is in Ainsworth. Judge Kozisek earned his undergraduate degree in business administration from the University of Nebraska – Lincoln in 1975 and his law degree from Creighton University in 1978. Hon. Kozisek can be reached at Brown County District Court, P.O. Box 225, Ainsworth, NE 69210 or by phone, 402-387-2162.

◆ MANDATORY JUDICIAL BRANCH EDUCATION RULE

On May 26, 2004, the Nebraska Supreme Court adopted a new mandatory rule which establishes guidelines for mandatory judicial branch education to be administered by Philip Gould, Director of Judicial Branch Education. Appellate judges are required to complete 20 hours of JBE programming in each biennium; District Judges, Separate Juvenile Judges and County Judges are required to complete 10 hours of JBE programming each year. Clerk magistrates, probation officers and official court reporters are required to complete 8 hours of programming each year. The rule contemplates that all judicial branch employees will have mandatory education, and will be implemented in three phases beginning January 1, 2005.

The Principles and Standards of Nebraska Judicial Branch Education, adopted concurrently with the mandatory rule, are based on the Principles and Standards drafted by the National Association of State Judicial Educators. They provide guidance and direction to the JBE staff regarding programming options and underline the commitment that the Nebraska Supreme Court has made to improve the quality of justice through continuing professional education.

More detailed information will be available at the regular annual meetings scheduled for the summer and fall this year when Mr. Gould will present the details of these documents and how they are going to impact judicial branch employees.

◆ UPCOMING MEETINGS AND TRAINING OPPORTUNITIES

Mark your calendar.

Judicial Branch Education Calendar

- **Judges' Retirement Informational Seminar** presented by Nebraska Public Employees Retirement Systems, June 16, 1:00 p.m. – 4:00 p.m., Lincoln, Villager Courtyard & Gardens. Open to all members of Judges' Retirement Plan.

- **County Judges Summer Meeting**, June 16 – 18, Lincoln, Villager Courtyard & Gardens
- **Separate Juvenile Judges Summer Meeting**, June 23 – 24, Kearney, Holiday Inn
- **District Judges Summer Meeting**, June 23 – 25, Kearney, Holiday Inn
- **Official Court Reporters Summer Meeting**, June 23 – 25, Kearney, Holiday Inn
- **Clerks of the District Court Summer Education Program**, June 23 – 25, Grand Island, Midtown Holiday Inn
- **Judges' Retirement Informational Seminar** presented by Nebraska Public Employees Retirement Systems, June 24, 9:00 a.m. – 12:00 p.m., Kearney, Holiday Inn. Open to all members of Judges' Retirement Plan.
- **Clerk Magistrate Annual Meeting**, September 8 – 10, Grand Island, Midtown Holiday Inn

Contact Marcie Brush, Administrative Secretary, at 402-471-2249, for registration information on any of the above programs.

Summer JUSTICE Training Opportunities

- District Court, June 8 – 10, North Platte
- County Court, July 12 – 16, Lincoln
- County Court, August 9 – 13, North Platte
- District Court, August 17 – 19, Lincoln

Contact Marcie Brush, Administrative Secretary, at 402-471-2249, for a registration packet.

Mediation Training Opportunities

- Basic Mediation Training, July 27 – 30, North Platte (*note: date change*); November 10 – 13, Lincoln
- Family Mediation Training, October 12 – 15, Aurora
- Restorative Justice, June 10 – 11, Kearney
- Large Group Facilitation, September 9 – 10, Fremont (*note: date change*)

For more information, please call Kelly Riley, Training Institute Developer, at the NMCA Training Institute, 877-342-2004.

◆ FILING AND REPORTING REQUIREMENTS

Judicial Office Holder's Retention Application: Due August 1. If you are up for retention and would like to verify that your application has been received by the Secretary of State, go to their website (<http://www.sos.state.ne.us/local/ElectionData/2004/Primary/Candidates/retention.htm>) and select the bench you serve on. If your name is on the list, your application has been received.

Judges' Cases Under Advisement Reports: Due by the 5th day of each month (reports are compiled and submitted to the Supreme Court).

Report of Probate Cases Pending: Due by the 10th day of each month.

Court Reporter Timesheets: Due by the 5th day of each month (judges are to sign time sheets prior to submission).

Court Caseload Monthly Statistic Reports: Due by the 10th day of each month.

County Court Time Sheets: Due by the 10th day of each month.

Stenographer Transcription Reports: Due by the 10th day of each month.

Cash Drawer Short/Long Transactions (County Court only): Due by the 10th day of each month.

Permanently Assigned Vehicle Logs: Due by the 5th day of each month.

Expense Vouchers: Submit on a monthly basis (rather than combining several months of expenses on one voucher)

Statement for Payment of Interpreters: Interpreter to submit between the 1st and 7th day of each month.

◆ LEGISLATURE PASSES LB 1207

LB 1207 was passed by the Nebraska State Legislature and approved by the Governor with the emergency clause. The operative date is April 16, 2004, for all sections except Sec. 1 which has an operative date of July 1, 2004. The following are brief summaries of the various sections.

Sec. 1 Clay and Nuckolls Counties are moved from the tenth district court judicial district to the first judicial district.

- Sec. 2** Allows the Nebraska Supreme Court the authority to relocate district or county court judges within a judicial district. The court may pay the reasonable moving expenses of judges who are relocated.
- Sec. 3, 4, 5** Provide a uniform rule for post-trial motions. This legislation clarifies that a motion for a new trial, motion for judgment notwithstanding the verdict, or motion to alter or amend a judgment filed after the announcement of a verdict, but before entry of the judgment shall be treated as filed after the entry of judgment and on the day thereof. Section 25-1144.0 now reads: A motion for a new trial filed after the announcement of a verdict or decision but before the entry of judgment shall be treated as filed after the entry of the judgment and on the day thereof. Statutory language previously stated that a motion for new trial shall be filed no later than ten days after the entry of judgment. The language was identical to the Federal Rules of Civil Procedure, which permits the motion to be filed after the announcement of a judgment but before the entry of that judgment. However, the Nebraska Supreme Court interpreted the language in Nebraska's previous statutes as if only filing a motion for a new trial be brought within ten days after the court has entered the judgment. Similar language existed in statutes relating to a motion for judgment notwithstanding the verdict and a motion to alter or amend a judgment.
- Sec. 6** Previously, Nebraska did not specifically exempt federal or state earned income tax credit refunds from bankruptcy proceedings. This legislation exempts the full amount of any federal or state refund from garnishment, attachment and all creditor claims.
- Sec. 7** Previously, an examination of a judgment debtor could only occur after an execution of the debtor's personal property had been returned unsatisfied. This legislation provides that anytime after the entry of a judgment against a debtor, the creditor is entitled to an order from the court compelling the debtor to appear before the court to answer questions concerning his or her property.
- Sec. 8** A supersedeas bond shall be the lesser of (a) the amount of judgment and costs plus the estimated interest that will accrue on the judgment, (b) fifty percent of the appellant's net worth, or (c) fifty million dollars.
- Sec. 10** In forcible entry and detainer actions when regular civil service is unsuccessful and an affidavit is filed stating why the service was unsuccessful, service may be made by leaving a copy of the summons at the defendant's last known address and by mailing a copy by first class mail to such address.
- Sec.15** An objection to a forma pauperis application shall be made within thirty days or at any time if the ground for the objection is that the initial application was fraudulent.
- Sec. 17** Authorizes the disclosure of pre-sentence reports and psychiatric examinations to the Nebraska Supreme Court or its agent for research purposes.
- Sec. 44** Changes references of the Nebraska State Bar Counsel for Discipline to the Counsel for Discipline of the Nebraska Supreme Court.

The remaining sections of the bill amends the statutory sections concerning divorce and dissolution actions to reflect terms used for all other civil actions. Changes state that the first pleading in a divorce action is a Complaint and that the parties to the action are defined as Plaintiff and Defendant. Divorce and dissolution pleadings are subject to the general rules for pleadings in civil actions. A complaint to modify would be the appropriate pleading to commence modification proceedings relating to custody, child support, or alimony.